BEFORE THE NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE

IN THE MATTER OF THE )
EXAMINATION OF NEW )
MEXICO TITLE INSURANCE )
LICENSEES, THROUGH )
JUNE 30, 2017 )

Docket No.: 16-00020-COMP-TI

STAFF PETITION TO EXTEND MARKET CONDUCT EXAMINATION

COMES NOW the Title Bureau Staff (Staff) of the Office of Superintendent of Insurance (OSI) and petitions the Superintendent of Insurance (Superintendent) for an order extending the Market Conduct Examination (Examination) that is being performed pursuant to orders of the Superintendent issued previously in this docket. In support of this Petition, Staff states as follows.

1. On May 18, 2016, the Superintendent, issued his *Order for Market Conduct Examination* (the “May 2016 Order”). Through that Order, the Superintendent opened this docket and ordered that a Market Conduct Examination (Examination) of title insurance industry licensees, including independent agents, affiliated agents, direct operations, and underwriters currently licensed in the state of New Mexico (Licensees) should be conducted pursuant to NMSA 1978, Section 59A-4-5. Pursuant to NMSA 1978, Section 59A-4-6, having determined the need to employ an independent contract examiner, the Superintendent appointed Birny Birnbaum Consulting, Inc., as the Consultant to conduct the Examination.

2. As set forth in the May 2016 Order, “The purpose of the Examination is to analyze and evaluate the degree of competition in New Mexico title insurance markets and to analyze and evaluate the cost of producing and administering title insurance policies based on the cost of component functions, including but not limited to: sales and marketing, title plant maintenance,
title search and abstract, underwriting, preliminary reports, curing title defects, issuing a title policy, maintaining a title policy, claims and claim settlement, closing protection letters, administrative costs, profit and relevant escrow and closing activities. The study will analyze and evaluate whether historical expenses reported by Licensees accurately reflect the reasonable costs of producing and administering a title. The study will analyze and evaluate geographic areas in New Mexico title insurance markets for differences in competition, costs to produce title insurance products, availability of title and escrow products and services and opportunities to improve title insurance related products and services to New Mexico consumers.” May 2016 Order, ¶ 2.

3. The May 2016 Order requires the Consultant, at the conclusion of the Examination, to submit a report to the Superintendent containing the Consultant’s analyses, conclusions and any recommendations that are warranted. The report is to include (without limitation) analyses of, and conclusions regarding, the issues described in the May 2016 Order.

4. The May 2016 Order anticipates that the Examination would end on or about June 30, 2017. However, the Consultant has recently informed Staff that it will not be able to complete the required work by that date.

5. Staff has reviewed the work performed so far under the Consultant’s Contract, and Staff recommends that, due to the nature and extent of the work still required to be performed to complete the examination, the end date of the examination should be extended by one year until June 30, 2018. Staff recommends that this docket be closed automatically upon the filing of the Consultant’s report.

6. Except for an extension of the filing deadline for the final report of the Consultant, Staff requests that all other parameters currently established for this proceeding be
maintained, including the requirement that the Consultant continue to observe all applicable confidentiality requirements.

7. A proposed form of order is provided with this Petition. (Exhibit “A”)

WHEREFORE, for all of the foregoing reasons, the OSI Title Bureau Staff respectfully requests that this Petition be granted and that the time for filing the final report of the Consultant be extended until June 30, 2018.

Respectfully submitted by:

[Signature]

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ORDER EXTENDING MARKET CONDUCT EXAMINATION

THIS MATTER comes before the Superintendent of Insurance (Superintendent) upon the Petition of the Title Bureau Staff (Staff) of the Office of Superintendent of Insurance (OSI) that was filed in this docket on June 21, 2017; whereupon, being duly informed,

THE SUPERINTENDENT FINDS AND CONCLUDES:

1. On May 18, 2016, the Superintendent, issued his Order for Market Conduct Examination (the "May 2016 Order"). Through that Order, the Superintendent opened this docket and ordered that a Market Conduct Examination (Examination) of title insurance industry licensees, including independent agents, affiliated agents, direct operations, and underwriters currently licensed in the state of New Mexico (Licensees) should be conducted pursuant to NMSA 1978, Section 59A-4-5. Pursuant to NMSA 1978, Section 59A-4-6, having determined the need to employ an independent contract examiner, the Superintendent appointed Birny Birnbaum Consulting, Inc., as the Consultant to conduct the Examination.

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title search and abstract, underwriting, preliminary reports, curing title defects, issuing a title policy, maintaining a title policy, claims and claim settlement, closing protection letters, administrative costs, profit and relevant escrow and closing activities. The study will analyze and evaluate whether historical expenses reported by Licensees accurately reflect the reasonable costs of producing and administering a title. The study will analyze and evaluate geographic areas in New Mexico title insurance markets for differences in competition, costs to produce title insurance products, availability of title and escrow products and services and opportunities to improve title insurance related products and services to New Mexico consumers.” May 2016 Order, ¶ 2.

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5. Staff has reviewed the work performed so far under the Consultant’s Contract, and Staff recommends that, due to the nature and extent of the work still required to be performed to complete the examination, the end date of the examination should be extended by one year until June 30, 2018. Staff recommends that this docket be closed automatically upon the filing of the Consultant’s report.
IT IS THEREFORE ORDERED:

A. The time for conducting the Examination should be, and hereby is, extended, until June 30, 2018.

B. This docket shall remain open pending the filing of the final report of the Consultant.

C. The Consultant shall continue to treat all information collected from Licensees during the Examination as highly confidential non-public information pursuant to Article 4 of the New Mexico Insurance Code, NMSA 1978, Sections 59A-4-1, et seq.

D. This docket shall close automatically upon the filing of the final report of the Consultant.

E. Copies of this Order shall be sent to all parties noticed on the attached Certificate of Service by electronic mail only and a copy of this Order shall be placed on the OSI Internet web site, under the “Title Bureau” tab.

Issued under the Seal of the Office of Superintendent of Insurance, Santa Fe, New Mexico, this ____ day of June, 2017.

JOHN G. FRANCHINI
Superintendent of Insurance

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CERTIFICATE OF SERVICE

I certify that true and correct copies of this Order Extending Market Conduct Examination were sent via electronic mail only on this date to the parties in this case on this ____ day of June, 2017.

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CERTIFICATE OF SERVICE

I certify that true and correct copies of this Staff Petition to Extend Market Conduct Examination were sent via electronic mail only on this date to the parties in this case on this 21st day of June, 2017.

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Title Bureau Licensee Distribution List
(Includes all currently licensed Title Insurance licensees in the state of New Mexico.)

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